

## Maritime Administration, DOT

## § 221.19

the vessel owner, will be by notification in the form of a Transfer Order upon receipt of the executed Contract, the required bond or other surety, and other supporting documentation required by the Contract.

(3) In order that the Maritime Administration's records may be maintained on a current basis, the transferor and transferee of the vessel are required to notify the Vessel Transfer Officer of the date and place where the approved transaction was completed, and the name of the vessel, if changed. This information relating to the completion of the transaction and any change in name shall be furnished as soon as possible, but not later than 10 days after the same has occurred.

[57 FR 23478, June 3, 1992, as amended at 63 FR 6881, Feb. 11, 1998; 66 FR 55596, Nov. 2, 2001]

### **§ 221.17 Sale of a documented vessel by order of a district court.**

(a) A Documented Vessel may be sold by order of a district court only to a Person eligible to own a Documented Vessel or to a mortgagee of the vessel. Unless waived by the Maritime Administrator, a Person purchasing the vessel pursuant to court order or from a mortgagee not eligible to document a vessel who purchased the vessel pursuant to a court order must document the vessel under chapter 121 of title 46, United States Code.

(b) A Person purchasing the vessel, pursuant to court order or from a mortgagee not eligible to document a vessel who purchased the vessel pursuant to a court order, and wishing to obtain waiver of the documentation requirement must submit a request including the reason therefor to the Vessel Transfer Officer.

(c)(1) A mortgagee not eligible to own a Documented Vessel shall not operate, or cause operation of, the vessel in commerce. Except as provided in paragraph (c)(2) of this section, the vessel may not be operated for any purpose without the prior written approval of the Maritime Administrator.

(2) The Maritime Administrator hereby grants approval for a mortgagee not eligible to own a Documented Vessel to operate the vessel to the extent necessary for the immediate safety of the

vessel or for repairs, drydocking or berthing changes, but only under the command of a Citizen of the United States.

[57 FR 23478, June 3, 1992, as amended at 63 FR 6881, Feb. 11, 1998]

### **§ 221.19 Possession or sale of vessels by mortgagees or trustees other than pursuant to court order.**

(a) A mortgagee or a trustee of a preferred mortgage on a Documented Vessel that is not eligible to own a Documented Vessel does not require the express approval of the Maritime Administrator to take possession of the vessel in the event of default by the mortgagor other than by foreclosure pursuant to 46 U.S.C. 31329, if provided for in the mortgage or a related financing document, but in such event the vessel may not be operated, or caused to be operated, in commerce. The vessel may not, except as provided in paragraph (b) of this section, be operated for any other purpose unless approved in writing by the Maritime Administrator, nor may the vessel be sold to a Noncitizen without the approval of the Maritime Administrator.

(b) The Maritime Administrator hereby grants approval for such mortgagee or trustee to operate the vessel to the extent necessary for the immediate safety of the vessel, for its direct return to the United States or for its movement within the United States, or for repairs, drydocking or berthing changes, but only under the command of a Citizen of the United States.

(c) A Noncitizen mortgagee that has brought a civil action *in rem* for enforcement of a preferred mortgage lien on a citizen-owned Documented Vessel pursuant to 46 U.S.C. 31325(b)(1) may petition the court pursuant to 46 U.S.C. 31325(e)(1) for appointment of a receiver and, if the receiver is Person eligible to own a Documented Vessel, to authorize the receiver to operate the mortgaged vessel on such terms and conditions as the court deems appropriate. If the receiver is not a Citizen of the United States, the vessel may not be operated in coastwise trade without prior written approval of the Maritime Administrator.

[57 FR 23478, June 3, 1992, as amended at 63 FR 6881, Feb. 11, 1998]

**Subpart C [Reserved]**

**Subpart D—Transactions Involving Maritime Interests in Time of War or National Emergency Under 46 App. U.S.C. 835 [Reserved]**

**Subpart E—Civil Penalties**

**§ 221.61 Purpose.**

This subpart describes procedures for the administration of civil penalties that the Maritime Administration may assess under 46 U.S.C. 31309 and 31330, and section 9(d) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(d)), pursuant to 49 U.S.C. 336.

NOTE: Pursuant to 46 U.S.C. 31309, a general penalty of not more than \$12,000 may be assessed for each violation of chapter 313 or 46 U.S.C. subtitle III administered by the Maritime Administration, and the regulations in this part that are promulgated thereunder, except that a person violating 46 U.S.C. 31328 or 31329 and the regulations promulgated thereunder is liable for a civil penalty of not more than \$30,000 for each violation. A person that charters, sells, transfers or mortgages a vessel, or an interest therein, in violation of 46 App. U.S.C. 808 is liable for a civil penalty of not more than \$12,000 for each violation. These penalty amounts are in accordance with Pub. L. 101–410, amended by Pub. L. 104–134. Criminal penalties may also apply to violations of these statutes.

[68 FR 33406, June 4, 2003]

**§ 221.63 Investigation.**

(a) When the Vessel Transfer Office obtains information that a Person may have violated a statute or regulation for which a civil penalty may be assessed under this subpart, that Officer may investigate the matter and decide whether there is sufficient evidence to establish a *prima facie* case that a violation occurred.

(b) If that Officer decides there is a *prima facie* case, then that Officer may enter into a stipulation with the Party in accordance with § 221.67 of this subpart, or may refer the matter directly to a Hearing Officer for procedures in accordance with § 221.73 to 221.89 of this subpart.

**§ 221.65 Criteria for determining penalty.**

In determining any penalties assessed, the Vessel Transfer Officer under § 221.67 and the Hearing Officer under §§ 221.73 to 221.89 of this part shall take into account the nature, circumstances, extent and gravity of the violation committed and, with respect to the Party, the degree of culpability, any history of prior offenses, ability to pay and other matters that justice requires.

**§ 221.67 Stipulation procedure.**

(a) When the Vessel Transfer Office decides to proceed under this section, that Office shall notify the Party in writing by registered or certified mail—

(1) Of the alleged violation and the applicable statute and regulations;

(2) Of the maximum penalty that may be assessed for each violation;

(3) Of a summary of the evidence supporting the violation;

(4) Of the penalty that the Vessel Transfer Officer will accept in settlement of the violation;

(5) Of the right to examine all the material in the case file and have a copy of all written documents provided upon request;

(6) That by accepting the penalty, the Party waives the right to have the matter considered by a Hearing Officer in accordance with §§ 221.73 to 221.89 of this subpart, and that if the Party elects to have the matter considered by a Hearing Officer, the Hearing Officer may assess a penalty less than, equal to, or greater than that stipulated in settlement if the Hearing Officer finds that a violation occurred; and

(7) That a violation will be kept on record and may be used by the Maritime Administration in aggravation of an assessment of a penalty for a subsequent violation by that Party.

(b) Upon receipt of the notification specified in paragraph (a) of this section, a Party may within 30 days—

(1) Agree to the stipulated penalty in the manner specified in the notification; or

(2) Notify in writing the Vessel Transfer Officer that the Party elects to have the matter considered by a Hearing Officer in accordance with the